(68)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal M.P. No. 247 of 2007

Applicant: Rajjab Ali

Versus

Respondent: M/s. Minakshi Enterprises

POST FOR ORDER ON 14th August, 2007

Sd/-
Dhirendra Mishra
Judge

(69)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal M.P. No. 247 of 2007

Applicant: Rajjab Ali, aged about 40 years, son of Sayyed Yusuf Ali, resident of A-67, Ageya Nagar, Bilaspur, Tehsil and district Bilaspur (C.G)

Versus

Respondent: M/s. Minakshi Enterprises, Proprietor Sunil Sultaniya, In front of High Court, Bilaspur Tehsil and Distt. Bilaspur (C.G.)

SB: HON'BLE SHRI DHIRENDRA MISHRA, J.

Presence:

Shri C.D. Sharma, Advocate for the applicant.

O R D E R

Heard on admission as well as on I.A. No. 1 for stay.

2. This petition under Section 482 of Cr.P.C. is directed against the order dated 13-6-2007 passed in Criminal Revision No. 74/2007 whereby learned 3rd Additional Sessions Judge, Bilaspur has rejected the Criminal Revision preferred by the petitioner against the order dated 3-5-2007 passed by Additional Chief Judicial Magistrate, Bilaspur.

3. The grievance of the petitioner is that a complaint under Section 138 of the Negotiable Instruments Act was filed on 29-10-2005 whereupon notices were directed to be issued to him and bailable warrant was executed for his appearance on 6-9-2006 and ultimately on account of his non-appearance on 26-9-2006, warrant of arrest was directed to be issued against the petitioner. He preferred a revision against the issuance of the warrant of arrest which was rejected.

4. The only grievance of the petitioner before the Additional Chief Judicial Magistrate was that the process

issued against him did not accompany a copy of the complaint as provided under sub-section (3) of Section 204 of Cr.P.C. and, therefore, the learned trial Court ought to have rejected the complaint under sub-section(4) of Section 204 of the Cr.P.C. However, the aforesaid objection was rejected by the trial Court with an observation that the accused appeared on 6-9-2006, thereafter on 26-9-2006 through his advocate. He further appeared on 5-2-2007 and furnished bail and thereafter, he has appeared on 28-2-2007 and particulars of offence were explained to the applicant however, at no point of time, the aforesaid objection of non-supply of the copy of the complaint was taken, and, therefore, the application preferred by the applicant is not bonafide. In the revision, learned Additional Sessions Judge observed that the trial Court had no power to review his own order of issuance of process against the petitioner and the irregularity, if any, in the issuance of process was curable and the trial is not vitiated, and dismissed the revision.

5. In the considered opinion of this Court, there is no illegality or infirmity in the orders passed by both the Court below and the same do not call for any interference under Section 482 of Cr.P.C.

6. The petition being devoid of substance is liable to be dismissed and is hereby dismissed at admission stage.

Sd/-
Dhirendra Mishra
Judge

PI